



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Frisco Medical Center

**Respondent Name**

American Zurich Insurance Co

**MFDR Tracking Number**

M4-17-2134-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

March 15, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "Medicare would have reimbursed the provider at the base APC rate of \$4,889.06 for APC # 0042. Allowing this at 200% would yield a fair and reasonable allowance of \$9,778.11. Also Medicare would have reimbursed the provider at the base APC rate of \$4,889.06 for APC # 0042. Allowing this at 200% would yield a fair and reasonable allowance of \$9,778.11, but per the multiply procedure rule the allowable would be at 50% for the APC the allowable amount due totaled is \$4,889.06. Also Medicare would have reimbursed the provider at the base APC rate of \$2,356.93 for # 0041. Allowing this at 200% would yield a fair and reasonable allowance of \$4,713.85 but per the multiply procedure rule the allowable would be at 50% for the APC the allowable amount due totaled is \$2,356.93 [sic] Based on their payment of \$11,101.08 for the APC a supplemental payment is still due of \$6,072.33 the APC alone, at this time."

**Amount in Dispute:** \$6,072.33

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Please see the EOB(s) and the reduction rational(s) stated therein. The Texas Labor Code requires reimbursement for all medical expenses to be fair and reasonable and be designed to ensure the quality of medical care and to achieve effective medical cost control. TEX. LABOR CODE Section 413.011 (d). Subject to further review, the carrier asserts that it has paid according to applicable fee guidelines and challenges whether the disputed charges are consistent with applicable fee guidelines."

**Response Submitted by:** Flahive, Ogden & Latson

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 15 - 16, 2016	269827 [sic], 29828, 29824	\$6,072.33	\$0.00

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

## **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403 sets out reimbursement guidelines for outpatient hospital services.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - P12 – Worker’ compensation jurisdictional fee schedule adjustment
  - W3 – In accordance with TDI-DWC Rule 134.804, this bill has been identified as a request for reconsideration or appeal

## **Issues**

1. Is the requestor’s position supported?
2. Is the carrier’s reductions supported?
3. Is the requestor due additional payment?

## **Findings**

1. The claim is dispute is for outpatient hospital services rendered on March 15 -16, 2016. The requestor is seeking reimbursement for \$6,072.33. The requestor states in pertinent part, “Medicare would have reimbursed the provider at the base APC rate of \$4,889.06 for APC # 0042. ...but per the multiply procedure rule the allowable would be at 50% for the APC the allowable amount due totaled is \$4,889.06. Also, Medicare would have reimbursed the provider at the base APC rate of \$2,356.93 for APC # 0041.”

Review of the services in dispute listed on the DWC060 are:

- 269827 [sic] – 29827 - Arthroscopy, shoulder, surgical; with rotator cuff repair
- 29828 - Arthroscopy, shoulder, surgical; biceps tenodesis
- 29824 - Arthroscopy, shoulder, surgical; distal claviclectomy including distal articular surface (Mumford procedure)

Outpatient hospital services are subject to the requirements of 28 Texas Administrative Code 134.403 (d) which states in pertinent part,

For coding, billing, reporting, and reimbursement of health care covered in this section, Texas workers' compensation system participants shall apply Medicare payment policies in effect on the date a service is provided...

The applicable Medicare payment policy is found at [www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS](http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS).

- **Payment status indicator** - The status indicator identifies whether the service described by the HCPCS code is paid under the OPPTS and if so, whether payment is made separately or packaged. The status indicator may also provide additional information about how the code is paid under the OPPTS or under another payment system or fee schedule. The relevant status indicator may be found at the following: [www.cms.gov](http://www.cms.gov), Hospital Outpatient Prospective Payment – Final Rule, OPPTS Addenda, Addendum D1.
- **APC payment groups** - Each HCPCS code for which separate payment is made under the OPPTS is assigned to an ambulatory payment classification (APC) group. The payment rate and coinsurance amount calculated for an APC apply to all of the services assigned to the APC. A hospital may receive a number of APC payments for the services furnished to a patient on a single day; however, multiple surgical procedures furnished on the same day are subject to discounting. The relevant payment amount for each APC may be found at [www.cms.gov](http://www.cms.gov), Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/Annual-Policy-Files, Addendum B. These files are updated quarterly.

Review of the applicable Addendum B at the above referenced web site finds the following APC payment group for the services in dispute:

- 29827 – APC 5123

- 29828 – APC 5123
- 29824 – APC 5122

Review of the applicable Addendum D1 finds APC 5123 has a status indicator of “J1” and the definition of this status indicator is as follows:

*J1, Hospital Part B services paid through a **comprehensive APC** Paid under OPPTS; **all covered Part B services on the claim are packaged with the primary "J1" service for the claim**, except services with OPPTS SI=F,G, H, L and U; ambulance services; diagnostic and screening mammography; all preventive services; and certain Part B inpatient services.*

Review of the applicable Addendum D1 finds APC 5122 has a status indicator “T.” However as shown above Code 29824 is not a service that is paid separate from the comprehensive APC.

Therefore, the requestor’s position of additional payment based on stated APC and multiple procedure discount rule is not supported. The services in dispute will be reviewed per applicable rules and fee guidelines.

2. The carrier reduced the services as P12 – “Workers’ compensation jurisdictional fee schedule adjustment.”

In order to calculate the correct Division fee guideline, stakeholders should be familiar with the main components in the calculation of the Medicare payment for OPPTS services, which are:

- **How Payment Rates Are Set**, found at [www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/HospitalOutpaysysfctst.pdf](http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/HospitalOutpaysysfctst.pdf),
  - *To account for geographic differences in input prices, the labor portion of the national unadjusted payment rate (60 percent) is further adjusted by the hospital wage index for the area where payment is being made. The remaining 40 percent is not adjusted.*

The maximum allowable reimbursement is calculated per 28 Texas Administrative Code §134.403 (e) and (f) which states in pertinent part,

(e) Regardless of billed amount, reimbursement shall be:

(1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or

(2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables.

(f) The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.

(1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:

(A) 200 percent; unless

(B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent.

Review of the submitted medical claim finds no evidence of a contract and separate reimbursement for implantables not requested therefore, the requested service in dispute are reimbursed based on 28 Texas Administrative Code §134.430 (f)(1)(A).

Submitted code	Status Indicator	APC	Payment Rate	Unadjusted labor amount = APC payment x 60%	Geographically adjusted labor amount = unadjusted labor amount x annual wage index 0.9731	Non labor portion = APC payment rate x 40%	Medicare facility specific reimbursement (geographically adjusted labor) amount + non labor portion)	Maximum Allowable Reimbursement
29827	J1	5123	\$5,094.41	\$5,094.41 x 60% = \$3,056.65	\$3,056.65 x 0.9731 = \$2,974.43	\$5,094.41 x 40% = \$2,037.76	\$2,974.43 + \$2,037.76 = \$5,012.19	\$5,012.19 x 200% = \$10,024.38
							Total	\$10,024.38

3. Based on the applicable Medicare payment policy the total recommended reimbursement for the comprehensive APC is \$10,024.38. The insurance carrier made three line item payments as follows:

- 29926 - \$6,355.77
- 29824 - \$3,064.00
- 29821 - \$1,632.00

Total \$10,951.77

As this amount represents more than the recommended allowable, no additional reimbursement is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
April 14, 2017  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**